

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GUILLERMO TORRES,)	Case No.: 1:08 CV 1062
)	
Petitioner)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
CARL ANDERSON, Warden,)	
)	
Respondent)	<u>ORDER</u>

On April 24, 2008, Petitioner Guillermo Torres (“Torres” or “Petitioner”) filed a petition for writ of habeas corpus (“Petition,” ECF No. 1) pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state court conviction for murder. Torres argues that his Petition should be granted based on the following grounds: (1) the state trial judge violated his rights under the Fourteenth Amendment by denying his motion to suppress eyewitness identification of Harold Ford, Frank Camarda, and David Lett; (2) the state trial court judge violated his constitutional right against self-incrimination by denying his motion to suppress certain statements; and (3) the verdict was against the manifest weight of the evidence in violation of his due process rights. (*See* Petition at 5-9.) This court referred the case to Magistrate Judge Greg White for preparation of a Report and Recommendation. On August 21, 2008, Respondent Carl Anderson (“Respondent”) filed a Motion to Dismiss (ECF No. 7).

Magistrate Judge White submitted his Report and Recommendation (ECF No. 13) on February 17, 2009, recommending that Torres's Petition for Habeas Corpus under 28 U.S.C. § 2254 be dismissed. He found that because Torres failed to timely raise the grounds asserted in the instant case before the Supreme Court of Ohio, all grounds are procedurally defaulted.

This court granted Torres's Motion for a Thirty (30) Day Extension of Time to Object to the Report and Recommendation (ECF No. 16), allowing him until March 30, 2009 to object. However, as of the date of this Order, Petitioner has not filed objections to the Report and Recommendation. By failing to do so, he has waived the right to appeal the Magistrate Judge's recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

The court finds that, after *de novo* review of the Report and Recommendation and all other relevant documents, the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation (ECF No. 13). Torres's Petition is hereby denied, and final judgment is entered in favor of the Respondent. The court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/S/ SOLOMON OLIVER, JR.

UNITED STATES DISTRICT JUDGE

March 31, 2009